

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO

IN RE:)	CHAPTER 13
)	
Gina M. Thomas)	CASE NO. 20-40954
Richard D. Thomas)	
)	JUDGE Tiara N.A. Patton
Debtor(s))	
)	MOTION OF ACAR LEASING LTD DBA
)	GM FINANCIAL LEASING FOR RELIEF
)	FROM STAY WITH 30-DAY WAIVER
)	
)	PROPERTY:
)	** 2018 Chevrolet Equinox VIN:
)	2GNAXJEV5J6331067
)	
)	
)	
)	

ACAR LEASING LTD DBA GM FINANCIAL LEASING (the “Movant”) moves this Court, under Bankruptcy Code §§ 361, 362, and 363, and other sections of Title 11 of the United States Code, and under Federal Rule of Bankruptcy Procedure 4001 and 6007, and under Local Bankruptcy Rule 4001-1 for an order rejecting lease, conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On May 14, 2018 the Debtor(s) Gina M. Thomas entered into an Executory Contract with Greenwood Chevrolet, Inc. in the amount of \$32,041.65. This Figure represents total lease payments of \$14,644.55 and purchase option in the amount of \$17,397.10. The Executory Contract was evidence by a Lease Agreement and Security Agreement dated May 14, 2018 (the “Lease”), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it,

the Debtor(s) executed a Lease Agreement dated May 14, 2018 for a 2018 Chevrolet Equinox
VIN: 2GNAXJEV5J6331067 , (the "Lease Agreement") (check one):

☐ attached as Exhibit B;

OR

☒ contained in the Note, attached as Exhibit A

4. The lien created by the Security Agreement was duly perfected by:

☐ Filing of the Security Agreement in the office of the _ County Recorder
on:

☐ Filing of the UCC-1 Financing Statement in the office of ____ on (DATE).

☐ Notation of the lien on the Certificate of Title.

☒ Other (state with particularity)_____.

**Article 4 of the Standardized Forms does not apply to leased vehicles as it
refers to Security Agreement and perfection thereof.**

5. The entity in possession of the original Note as of the date of this motion is
ACAR LEASING LTD DBA GM FINANCIAL LEASING.

6. The entity servicing the loan is: N/A.

7. The Note was transferred as evidenced by the following:

a. If the Collateral is real estate:

i. Under Uniform Commercial Code § 3-203(a) as applicable under
state law in effect where the property is located, from the original
lender (check only one):

☐ N/A.

OR

☐ By endorsement on the Note payable to _____.

OR

☐ By blank endorsement on the Note.

OR

☐ By allonge attached on the Note payable to ____.

OR

- ☐ By blank allonge, attached to Note.

OR

- ☐ The Note is not endorsed to the Movant, or is not endorsed in blank with an allegation that the Movant is in possession of the original note. The factual and legal basis upon which the Movant is entitled to bring this motion is (explain with particularity and attach supporting documentation): _____.

OR

- ☐ By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit. Explain why it provides Movant the authority to endorse the Note:

- ii. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the ___ to ____.
- iii. A court has already determined that Movant has the ability to enforce the Note with a judgment dated _____ in the _____. A copy of the judgment is attached at Exhibit ____.
- iv. Other _____ [explain].

- b. If the Collateral is not real estate (check one):

- ☐ N/A.

OR

- ☒ **As is set forth in Exhibit A and Exhibit A-1, the Lease and Security Agreement were assigned from Greenwood Chevrolet, Inc. to ACAR Leasing LTD dba GM Financial Leasing.**

8. The Security Agreement was transferred as follows (check one):

- ☐ N/A.

OR

- ☒ **As is set forth in Exhibit A and Exhibit A-1, the Lease and Security Agreement were assigned from Greenwood Chevrolet, Inc. to ACAR Leasing LTD dba GM Financial Leasing.**

9. The value of the Collateral is \$17,150.00. This valuation is based on N.A.D.A.

10. As of the date of this motion, there is currently due and owing on the Lease the outstanding principal balance of \$17,397.10. Said balance represents the remaining payments due under the lease and a Purchase Option of \$17,397.10, as described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. The amount due and owing on the Note as set forth in paragraph 10 does not include a credit for the sum held in a suspense account by the Movant. The amount of the credit is N/A.

12. Other parties known to have an interest in the Collateral besides the debtor(s), the Movant, and the trustee are (check all that apply):

- ☒ N/A.
- ☐ The (COUNTY) Treasurer, for real estate taxes, in the amount of \$(AMOUNT)
- ☐ (CO-OWNERS, IF APPLICABLE)
- ☐ (ANY OTHER PARTY HOLDING A LIEN, IF APPLICABLE, IN THE AMOUNT OF \$_____ (ADD ADDITIONAL PARTIES AS APPROPRIATE))

13. The Movant is entitled to relief from the automatic stay under Bankruptcy Code § 362(d) for these reason(s) (check all that apply):

- ☒ Debtor(s) has/have failed to provide adequate protection for the lien held by the Movant for these reasons: The Debtor(s) has/have failed to tender periodic payments to Movant.
- ☐ Debtor(s) has/have failed to keep the Collateral insured as required by the Security Agreement.
- ☐ Debtor(s) has/have failed to keep current the real estate taxes owed on the Collateral.
- ☐ Debtor(s) has/have failed to make periodic payments to Movant for the months of , which unpaid payments are in the aggregate amount of through . The total provided in this paragraph cannot be relied upon as a post-petition reinstatement quotation.
- ☐ Debtor(s) is/are delinquent in funding the plan, and therefore the

Trustee has failed to make periodic payments to Movant since the commencement of the bankruptcy case for the months of which unpaid payments are in the aggregate amount of (AMOUNT) through (DATE). The total provided in this paragraph cannot be relied upon as a post-petition reinstatement quotation.

- ☐ Debtor(s) has/have no equity in the Collateral, because the Collateral is valued at \$_____, and including the Movant's lien, there are liens in an aggregate amount of \$_____ on the Collateral.
- ☐ Debtor(s) plan provides for surrender of the Collateral.
- ☐ The Property is not necessary to an effective reorganization because:
- ☒ Other cause (set forth with specificity): The leased matured 5/14/2021 and has not been turned in or purchased. Movant needs lift of stay to secure the vehicle.

14. Movant has completed the worksheet, attached as Exhibit C.

16. **The Creditor hereby waives the right under 11 U.S.C. §362(e) to a hearing on this motion within thirty (30) days of the date it is filed.**

WHEREFORE, Movant prays for an order from the Court: granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable non-bankruptcy law.

Respectfully submitted,

/s/ Cynthia A. Jeffrey
Lindsey Hall (#0075152)
Cynthia A. Jeffrey (#0062718)
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CERTIFICATE OF SERVICE

I certify that on May 19, 2021, a true and correct copy of the Motion for Relief from Stay was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

- Dionis E. Blauser dionisb@amourgis.com, bk_department@amourgis.com;taliagahanian@gmail.com;jpamourgisandassociates@gmail.com;dionisr44267@notify.bestcase.com
- LeAnn E. Covey bknotice@clunkhooose.com
- Michael A. Gallo mgallo@gallotrustee.com, mgallo@ecf.epiqsystems.com
- Cynthia A. Jeffrey bankruptcy@weinerlaw.com
- United States Trustee (Registered address)@usdoj.gov

And by regular U.S. mail, postage prepaid, to:

Gina M. Thomas
841 Ewing Road
Boardman, OH 44512

Richard D. Thomas
841 Ewing Road
Boardman, OH 44512

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541

The Huntington National Bank
PO Box 89424
Cleveland, OH 44101

/s/ Cynthia A. Jeffrey
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